UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

US BANKRUPTCY COURT
DISTRICT OF OREGON
2016 NOV 28 PM 4:25
LODGED ___ REC'D ___
PAID ___ DOCKETED ___

In re

**JACK KARROLL DAVIS,**

Debtor(s)

) Case No. **16-34317-pcm7**

) NOTICE OF HEARING ON MOTION FOR RELIEF FROM **DEBTOR'S** AUTOMATIC STAY IN A **CHAPTER 7/13** CASE, AND/OR **CODEBTOR'S** STAY IN A **CHAPTER 13** CASE

The attached Response, filed for the respondent, **Jack Karroll Davis**, who is the (debtor, trustee, etc.) **Debtor**, is in response to the Motion for Relief from Stay filed on behalf of (moving party) **Brenda Harvey**.

The name and service address of the respondent's attorney (or respondent, if no attorney) are: **Jack Karroll Davis 27448 S. Highway 213, Mulino, Oregon 97042**.

(If debtor is respondent) The debtor's address and Taxpayer ID#(s) (last 4 digits) are: *****-**-2966 27448 S. Highway 213, Mulino, Oregon 97042**.

**NOTICE IS GIVEN THAT:**

A **Telephone Hearing** on the Motion, at which no testimony will be taken, will be held as follows:

**Date:** **12/06/16**
**Time:** **1:30 pm**

**Call In Number:** (888) 684-8852
**Access Code:** 3702597

[Note: If you have problems connecting, call the court at (503) 326-1500 or (541) 431-4000.]

**TELEPHONE HEARING REQUIREMENTS**

1. You must call in and connect to the telephone hearing line or personally appear in the judge's courtroom no later than your scheduled hearing time. The court will not call you.

2. You may be asked to call again from another phone if your connection is weak or creates static or disruptive noise.

3. Please mute your phone when you are not speaking. If you do not have a mute function on your phone, press *6 to mute and *6 again to unmute if you need to speak. Do not put the court on hold if it will result in music or other noise. If available, set the phone to "Do Not Disturb" so it will not ring during the hearing.

4. When it is time for you to speak, take your phone off the "speaker" option or headset to minimize background noise and improve sound quality. Position the telephone to minimize paper rustling. Do not use a keyboard or talk with others in the room. Be aware that telephone hearings may be amplified throughout the courtroom.

5. Do not announce your presence until the court calls your case. Simply stay on the line, even if there is only silence, until the judge starts the hearings, and then continue to listen quietly until your case is called.

6. Whenever speaking, first identify yourself.

7. Be on time. The judge may handle late calls the same as a late appearance in the courtroom.

Jack Karroll Davis
Signature

I certify that: (1) the response was prepared using a copy of the ORIGINAL Motion; (2) if the Response was electronically filed, the response was prepared using the "FILLABLE" PDF version of the Motion unless the Motion was filed on paper and it could not be otherwise electronically obtained from the movant; and (3) that on **11/28/16** copies of this Notice and the Response were served on the moving party's attorney (or moving party, if no attorney) at the address shown in the Notice of Motion.

Jack Karroll Davis
Signature & Relation to Respondent

721 (6/1/13)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

BANKRUPTCY COURT
DISTRICT OF OREGON
2016 NOV 28 PM 4:29
LODGED____ REC'D ____
PAID____ DOCKETED____

In re
**JACK KAROLL DAVIS**

Debtor(s)

Case No. 16-34317-pcm7

(CHECK ALL APPLICABLE BOXES)
☒ Ch. 7/13 Motion for Relief from
☒ DEBTOR ☐ Chapter **13** CODEBTOR Stay
Filed by Creditor:
**BRENDA HARVEY**
☐ *Response to Stay Motion filed by Respondent:*
____________________

1. **Debt, Default, Other Encumbrances, Description and Value of Collateral** *(To be completed by creditor)*

a. Description of collateral (car model, year, VIN, property address):
**Lots 2,3,4,5 and 6 ALMO ACRES, in the City of Portland, County of Multnomah, State of Oregon, EXCEPT the West 10.0 feet for street purposes, by deed recorded June 7, 1991 in Book 2421, Page 1873, commonly known as 5224, 5230 and 5240 NE 42nd Avenue, Portland OR 97218 - This is not "collateral" - but a description of subject property which creditor is seeking possession from debtor.**

b. Amount of debt: $ **210,954.00** consisting of principal: $ **195,000.00**; interest: $ **15,954.00**; other:
**This Motion is seeking possession of the premises only.**

c. Description, amount and priority of other encumbrances on collateral. If not known, include applicable information from debtor's schedules if available on PACER:

Total debt secured by collateral (total 1.b. + 1.c.): $ ~~n/a~~ $650,000.00

d. Value of collateral: $ ~~n/a~~ ~~$1,300,000~~ $1,300,000
Equity in collateral: $ 600,000, after deducting $ 50,000 liquidation costs.

e. Current monthly payment: $ **n/a**.

f. If Chapter 13:

(1) $______ postpetition default consisting of (e.g., $____ payments, $____ late charges, $____ fees):

(2) $______ prepetition default consisting of ☐ amounts specified in proof of claim, or, ☐ consisting of:

g. If Chapter 7, total amount of default $ **210,954.00**.

***RESPONSE*** *(Identify specific items disputed and specify what you contend are the pertinent facts including why there is a postpetition default, if applicable) (to be completed by respondent):*

property herein is collateral & movant is not entitled to possession as further decribed in "Debtors response and objections in opposition to movants motion for relief from the automatic stay under 11 U.S.C. § 362" (attached)

2. **Relief from stay should be granted because (check all that apply):** *(To be completed by creditor)*

☐ Lack of adequate protection because of failure to make sufficient adequate protection payments and lack of a sufficient equity cushion.

☐ Lack of insurance on collateral.

☐ No equity in the collateral and the property is not necessary for an effective reorganization.

☐ Failure of debtor to make Chapter 13 plan payments.

☐ Failure of debtor to make payments to secured creditor required by ¶4 of Chapter 13 plan.

☒ Other (describe):

**Debtor has no legal ownership or interest in the subject property under Judgment of 11/1/16 issued in the Multnomah Co Circuit Ct Case # 15CV01962. Brenda Harvey is the fee owner of the subject premises and was awarded possession of the premises. Mrs. Harvey wishes to restore possession of the subject premises to herself under the authority of the Writ of Execution issued to deliver possession from debtor.**

**This Motion only seeks relief to obtain possession of the premises.**

***RESPONSE*** *(Specify why relief from stay should be denied. If respondent proposes to cure a postpetition default, detail the cure by attaching a proposed order using Local Form (LBF) #720.90 available at www.orb.uscourts.gov under Forms/Local Forms) (to be completed by respondent):*

Mrs Harvey DID fradulently convey title to herself after probate without giving statutory notice to Debtor, additional response attached exhibit A & B

3. **Background** *(To be completed by creditor)*

a. Date petition filed: 11/14/16 Current Chapter: 7 (7 or 13)

If 13, current plan date ____________ Confirmed: ☐Yes ☐No

If 13, treatment of creditor's prepetition claim(s) in plan:

If 7, debtor ☐has ☒has not stated on Local Form (LBF) #521 or #521.05 that debtor intends to surrender the collateral.

b. Creditor has a lien on the collateral by virtue of (check all applicable sections and also see ¶6 below):

☐ Security agreement, trust deed or land sale contract dated ____________, and, if applicable, an assignment of said interest to creditor. The security interest was perfected as required by applicable law on ____________.

☐ Retail installment contract dated ____________, and, if applicable, an assignment of said interest to creditor. The security interest was perfected on the certificate of title on ____________.

☒ Other (describe):

**Brenda Harvey is the legal owner of the premises and is entitled to possession of the premises. Debtor is not a tenant and no lease or rental agreement exists between creditor and Debtor. Legal ownership in the premises was confirmed by a judgment quieting fee title in creditor Brenda Harvey and awarding possession of the premises to Brenda Harvey.**

***RESPONSE*** *(Identify any disputed items and specify the pertinent facts) (to be completed by respondent):*

Debtor Disputes above allegation of ownership by movant - Debtor has filed appeal as to above mentioned Judgment and other pertinent issues as outlined in Debtors response - exhibit A & declaration - exhibit B

4. **Request for Relief from Codebtor Stay** (Only Chapter **13**)

a. ________________________________, whose address is ________________________________ ________________________, is a codebtor on the obligation described above, but is not a debtor in this bankruptcy.

b. Creditor should be granted relief from the codebtor stay because (check all applicable boxes): ☐codebtor received the consideration for the claim held by creditor, ☐debtor's plan does not propose to pay creditor's claim in full, ☐creditor's interest would be irreparably harmed by continuation of the codebtor stay as a result of the default(s) described above and/or ☐because:

**RESPONSE** *(Identify any disputed items and specify the pertinent facts) (to be completed by respondent):*

5. **Other Pertinent Information** *(To be completed by creditor, if applicable):*

**Debtor has filed the current petition in bad faith. It is the third attempt by debtor to avoid his obligations to the same creditor on the same property. The first case 10-39945-tmb13 was dismissed due to Debtor failure to make payments to trustee.**

**Creditor has previously obtained another judgment of restitution of the premises from Debtor in three consolidated FED actions in Multnomah County, but was not able to obtain possession. (Multnomah Circuit Court Cases Nos. 130011857E, -8E and -9E). Debtor filed the second bankruptcy case 13-34825-elp13 on the eve of trial. The 2013 Ch. 13 case was dismissed on debtor's motion after a numerous unsuccessful attempts to obtain the Ch. 13 Plan confirmation.**

**Debtor failed to file any schedules as of the date of the filing of this Motion.**

**RESPONSE** *(Identify any disputed items and specify the pertinent facts) (to be completed by respondent):*

Case# 10-39945-tmb13 - Debtor DID pay all but last payment and expected to sell buildings to pay creditor - however creditor DID supplant "Straw-Buyer" a long time friend of creditor who DID no Consumate -
MCC case 130011857E .8E, 9E - Judgment was in F.E.D. court operating outside of its Jurisdiction on hearing issues of title and ownership in F.E.D. court - Debtor is preparing petition to US Supreme Court further outlined in Exhibit A & B

6. **Relief Requested (check all applicable sections):** *(To be completed by creditor)*

☐ Creditor requests relief from the automatic stay to allow it to foreclose its lien on the above identified collateral, and, if necessary, to take appropriate action to obtain possession of the collateral.

☐ Creditor has a security interest in real property and requests relief from stay with respect to an act against such property and that the relief be binding in any other bankruptcy case purporting to affect such real property filed not later than 2 years after the date of the entry of an order granting this motion. (*If you check this box, you must complete ¶5 above to support this request. If you do not do so, the Court will not grant relief binding in any other bankruptcy case.*)

☒ Creditor requests that the 14-day stay provided by FRBP 4001(a)(3) be waived based on the following cause:
**Creditor has no other means of obtaining possession of the premises and suffers damages for each day Debtor wrongfully remains in possession of the premises.**

☒ Other (describe and explain cause):
**Creditor requires relief from stay to proceed with any actions necessary to secure an execution of the Writ of Execution by Multnomah County Sheriff Office Deputies and delivering possession of the premises to Creditor Brenda Harvey pursuant to the General Judgment which awarded possession of the premises to Mrs. Harvey (15CV01962) or, if needed, for re-issuance of the Writs of Execution and their subsequent execution by the Multnomah County Sheriff under ORS 18.**

**RESPONSE** *(Identify any disputed items and specify the pertinent facts. If respondent agrees to some relief, attach a proposed order using Local Form (LBF) #720.90 available at* *www.orb.uscourts.gov* *under Forms/Local Forms) (to be completed by respondent):*

As per Debtor response in exhibit A&B - creditor is not entitled to relief of stay - as outlined in Debtors response - exhibit A & Declaration - exhibit B

7. **Documents:**

**If creditor claims to be secured in ¶3.b. above** creditor has attached to and filed with this motion a copy of the documents creating and perfecting the security interest, if not previously attached to a proof of claim.

**If this case is a Chapter 13 case and the collateral as to which creditor seeks stay relief is real property**, creditor has attached to and filed with this motion a postpetition payment history current to a date not more than 30 days before this motion is filed, showing for each payment the amount due, the date the payment was received, the amount of the payment, and how creditor applied the payment.

**RESPONDENT requests creditor provide** Respondent with the following document(s), if any marked, which are pertinent to this response:

☐ Postpetition payment history if not required above.
☐ Documents establishing that creditor owns the debt described in ¶1 or is otherwise a proper party to bring this motion.
☐ Other document(s) (specific description):

this form Does not contain sufficient space for complete response Debtor DID attach exhibit A & B and reserves the right to Amend [signature]

CREDITOR/ATTORNEY

Signature: /s/ Robert S. Phed
Name: Robert S. Phed
Address: 1001 SW 5th Ave, Suite 1220, Portland OR 97204

Email Address: robert@phedlaw.com
Phone No: 503 796 7433
OSB#: 064696

RESPONDENT **DEBTOR**/ATTORNEY *(by signing, the respondent also certifies that [s]he has not altered the information completed by creditor)*

Signature: [signature]
Name: Jack Kendall Davis
Address: 27448 S. Hwy 213
Molalla OR 97042
Email Address: JKDALive@Yahoo.com
Phone No: 503-953-9120
OSB#:

RESPONDENT **CODEBTOR**/ATTORNEY *(by signing, the respondent also certifies that [s]he has not altered the information completed by creditor)*

Signature:
Name:
Address:

Email Address:
Phone No:
OSB#:

*YOU ARE HEREBY NOTIFIED THAT THE CREDITOR IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.*

exhibit A

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

| | |
|---|---|
| In the Matter of:<br><br>JACK KARROLL DAVIS,<br><br>Debtor.<br><br>BRENDA HARVEY,<br>Movant,<br>vs.<br><br>JACK KARROLL DAVIS,<br><br>Respondent. | Case No. **16-34317-pcm7**<br><br>**DEBTOR'S RESPONSE AND OBJECTIONS IN OPPOSITION TO MOVANT'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362** |

The following Is lodged with the Court pursuant to the provisions of L.R. 220-2(b). The Motion for Relief from the Automatic Stay under U.S.C. § 362, filed herein against Debtor by Movant Brenda Harvey (hereinafter: "Movant"), should be denied for the following reasons:

**1. THE REQUESTED ORDER WOULD REPRESENT AN ABUSE OF THE COURT'S DISCRETION, BECAUSE THE MOTION IS UNTIMELY:**

Rule 60(b)(6) FRCP reads in pertinent part as follows:

"On motion and upon such terms as are just, the court may relieve a party or a party's

> legal representative from a final judgment, order, or proceeding for ... any ... reason justifying relief from the operation of the judgment."

The Motion is untimely offered, and is therefore in bad faith. The controlling decision on this issue was rendered in _In re Can-Alta Properties, Ltd._, 87 B.R. 89, 9th Cir. BAP, Ariz., (1998), in which the primary thrust of the decision was that the Debtor was not given, indeed could not have been given, any opportunity to cure defects in the petition or the plan, consistent with the Court's concerns.

In the case herein, as was the case in _Can-Alta_, Debtor has not even submitted his schedules and financial information to the Court, therefore any request for relief from stay is untimely and cannot be granted, because to do so, without an opportunity for the Trustee to evaluate and take control of the assets of the bankruptcy estate. Additionally, as is more fully set forth in the accompanying declaration of Debtor Jack Karroll Davis, there is at issue and subject to the Trustee's authority, a sum of money on deposit in the amount of $60,000, which sum is in danger of being irrevocably lost, if relief from stay is granted.

Additionally, as is more fully set forth Debtor's Declaration, Debtor's ultimate goal of converting the instant case into a Chapter 13, emphasizes even more the need for the automatic stay to remain in place, in that no hearing on a proposed Plan has yet been held, no evidence regarding confirmibility or feasibility of said Plan has been presented to the court, and finally and most importantly, the Debtor has had no opportunity to amend a Plan consistent with any concerns the Court, the Trustee or other creditors might express.

The lifting of the Automatic Stay is one of the most serious and consequential actions that a bankruptcy court can take. When coupled with the Debtor's statutory and Constitutional right to be secure in his property and possessions to the extent exempted by law, and the need for the Court to consider that 11 U.S.C. § 362(a) provides that the Automatic Stay is intended to give the debtor breathing room by stopping all collection efforts, all harassment, and all foreclosure actions, it is not appropriate for the court to consider lifting the automatic stay for purely procedural or technical reasons.

In this case however, Debtor's right to the "breathing room" to which he is otherwise entitled, has been seriously curtailed and infringed upon by the Movant's bad faith filing of the motion for relief from stay, which was filed with the Court, the very same day as the initial filing of the Petition. It should not be an allowable use of the Bankruptcy Court for Movant to employ the shield of a motion filing to harass Debtor. As was set forth in *Peerless Ins. Co. v. Rivera*, 208 B.R. 313, D.R.I. (1997):

> "Section 362(d)(1) permits a 'party in interest' to obtain relief from the Bankruptcy Code's automatic stay provision 'for cause.' 11 U.S.C. § 362(d)(1). The statute does not define 'cause'; but, generally speaking, 'cause' is said to exist when the harm that would result from a continuation of the stay would outweigh any harm that might be suffered by the debtor or the debtor's estate if the stay is lifted. *In re Turner*, 161 B.R. 1, 3 (Bankr.D.Me.1993).
>
> "Determining whether 'cause' exists requires a fact intensive inquiry that must be made on a **case by case** basis. *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990)." (emphasis added)

The Courts have identified a number of factors to be considered in making the determination as to whether relief from stay should be granted or not. See *In re Unanue-Casal*, 159 B.R. 90, 95-96 (D.P.R.1993), aff'd, 23 F.3d 395 (1st Cir.1994) (listing twelve factors). As was the case in *Peerless*, four factors that are especially applicable in this case for the Court to consider in making its determination are:

1. the harm to the party seeking relief from the stay (i.e., Movant) if the stay is not lifted;
2. the harm to the debtor if the stay is lifted;
3. the interests of creditors; and
4. the effect on the fair and efficient administration of justice.

**I. The harm to Movant.**

In this matter, since the value of the subject property is clearly sufficient to protect Movant's interest, the only "harm" suffered by Movant as a result of the stay will have been a delay in its ability to obtain resolution of the state court claims made by Debtor, a harm that can be properly characterized as relatively slight. _In re Annie's, Inc._, 201 B.R. 29 (Bankr.D.R.I.1996).

In making its Motion herein, the Movant has apparently overlooked the fact that the stay also protects and preserves the state court case, the non-exempt proceeds from which, if Debtor prevails, would provide a substantial source of resources, potentially available to Debtor's other creditors herein. Additionally, Movant has not disclosed to this court that Movant did receive the note to these properties In Probate as a result of passing of the originators of the note and said transfer as noted on the transfer d Was for Zero $0.00 dollars. Movant has no investment in the properties in the first place.

**II. The harm to Debtor Jack Karroll Davis.**

By contrast, the harm caused to Debtor by the lifting of the Automatic Stay is immeasurable: Debtor has owned the subject property for almost a decade; well prior to the time that Movant acquired her interest in the property. Movant's requested relief, if granted by the Court, would effectively destroy Debtor's substantial and meaningful investment in the Premises, harming both Debtor, his family As this is the major part of the income for Debtor and his family and the community at large. Additionally, it is well established that the automatic stay should be lifted, in regards real property, only as a last resort. As the Ninth Circuit admonished in _In re Shamblin,_ 890 F.2d 123, C.A. 9, Cal. (1989): "Any equitable exception to the automatic stay should be narrow and applied **only in extreme circumstances**." (emphasis added)

**III. The interests of Creditors.**

Movant seeks to improperly benefit, to the expense and detriment of other creditors affected by the bankruptcy filing. As set forth in the attached Declaration, Debtor has placed the sum of $60,000 into a state court case supercedeas bond on the Premises. Since the Movant now has a money award which offsets that bond, the $60,000 is now available for attachment and distribution by the Trustee. Additionally, the non-exempt proceeds from the state court bond could provide sufficient funds to substantially satisfy all creditors' claims, a possibility which does not otherwise exist.

**IV. The effect on the fair and efficient administration of justice.**

The Movant's requested relief, if granted, will have the inevitable result of mooting and destroying much of Debtor's state court case. The Debtor also requests that the Court take judicial notice of the temporary restraining order against foreclosure which was issued and sustained by the Multnomah

County Circuit Court, and suggests to this Honorable Court that the clear inference of such an occurrence is an apparent conclusion, the state court, that Debtor has a likelihood of prevailing on the merits of his case at appeal.

Unfortunately, the inevitable result of the Court's granting relief from stay will be that Movant and her co-defendant in the state court case will be rewarded for their illegal and improper behavior; debtor's other creditors will be disadvantaged, and deprived of potential compensation.

The result of the Court granting relief from stay therefore, can under no stretch of the imagination be viewed as a "fair and efficient administration of justice"; rather it serves only to block and frustrate the same.

**2. MOVANT'S CLAIM IS FAULTY:**

The Movant has the initial burden to establish that cause exists, while the debtor bears the ultimate burden on all other issues other than equity in its property. 11 USC § 362(g); *In re Poissant*, 405 B.R. 267 (Bankr. N. D. Ohio May 20, 2009). If the movant cannot make this initial showing, relief from stay should be denied without requiring the debtor to make any showing that it is entitled to continued protection of the automatic stay. *Sonnax Indus., Inc. v. Tri Component Production Corp. (In re Sonnax Indus., Inc.),* 907 F. 2d 1280, 1285 (2nd Civ. 1990).

"Cause" is not defined in the Bankruptcy Code but includes the lack of adequate protection. Therefore, under § 362 (d)(1), the"court must determine whether discretionary relief is appropriate on a case by case basis". *In re Laguna Associates*, L.P., 30 F. 3d 734, 737 (6th Civ. 1994). In determining whether cause exists, the bankruptcy court should base its decision on the hardships imposed on the parties with an eye toward the overall goals of the Bankruptcy Code. *In re C&S Grain Co.*, 47 F. 3d 233, 238 (7th Civ. 1995).

In the matter at hand, the Movant has offered no rationale as to why the automatic stay should be lifted, or identified any possible harm that will come to Movant as a result of the imposition of the automatic stay. Further, Movant has attached no exhibits or other documentation supporting her claim for possession, in direct contravention of the requirements of paragraph 7 of the Motion for Relief, and therefore has failed to provide sufficient cause for this Court to even consider the drastic step of granting relief from the automatic stay.

For the reasons as outlined and explained hereinabove, and in the interests of preserving the Debtor's right to enjoy protection under the Automatic Stay, absent either the most extreme circumstances or demonstrated danger to a creditor's legitimate security interests, neither of which are present in this case, the Motion for Relief From the Automatic Stay should be denied.

Wherefore, the Debtor requests that this Court deny, in its entirety, the Motion for Relief From Automatic Stay.

Dated, this 28th day of November, 2016.

Jack Karroll Davis, Debtor Pro Se
27448 S. Highway 213
Mulino, Oregon 97042
(503) 953-4120

exhibit B

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

| | |
|---|---|
| In the Matter of:<br>JACK KARROLL DAVIS,<br>Debtor.<br>BRENDA HARVEY,<br>Movant,<br>vs.<br>JACK KARROLL DAVIS,<br>Respondent. | Case No. **16-34317-pcm7**<br>**DECLARATION OF DEBTOR JACK KARROLL DAVIS** |

COMES NOW, Jack Karroll Davis, and hereby declares and says:

1. I am the debtor in the above-entitled bankruptcy action, acting pro se herein.

2. This Affidavit is made in support of my Debtor's Response and Objections to Movant's Motion for Order Granting Relief From the Automatic Stay Under U.S.C. 11 $ 356.

3. I further believe that I will suffer immediate, permanent and irreparable harm as a result of the immediate enforcement of the Court's Order Granting Relief From Stay, before my Schedules and Financial Affairs documents are even due to be filed with the Court.

4. I have filed for, and received, an Order, extending my due date for the missing schedules and other documents in my Bankruptcy case, until December 7, 2016; however Movant's Motion is scheduled to be heard on December 6, 2016. Therefore, Movant cannot represent to the court that she

will suffer any harm as a result of the imposition of the automatic stay, because she cannot - in good faith - identify any failure on the part of my bankruptcy to adequately deal with her claims against me. Additionally, Movant has not disclosed to this court that Movant did receive the note to these properties In Probate as a result of passing of the originators of the note and said transfer as noted on the transfer d Was for Zero $0.00 dollars. Movant has no investment in the properties in the first place.

5. There is also the matter of a $60,000 supercedeas undertaking that I was required to file in Multnomah County Case No. 130011857E, as a "far use and benefit" amount, for continued possession of the premises, during the pendency of the appeal. Movant's money award in Multnomah County Case No. 15CV01962 of $195,000 - which case is currently under appeal - represents that same "fair use and benefit" period, so to permit Movant to have **both** the $60,000 bond, while at the same time pursuing the $195,000 money award, would - in essence - grant Movant what amounts to a "double dipping" benefit, at the direct expense of the other creditors.

6. Further, as a pro se Debtor, I elected to file my case as a Chapter 7, in consideration of the relative difficulty in pursuing a pro se Chapter 13; however it is my intention to obtain legal counsel for my bankruptcy, with the intention of converting it to a Chapter 13, and paying Movant for the debt owed on Debtors' buildings.

7. I further believe that my state court claims against Movant are well founded in law, and that I have a good likelihood of prevailing on the merits on appeal, provided my case is still viable at that time, and has not been mooted by this Court's granting relief from the automatic stay.

8. I believe that, should the Court order relief from stay, and the immediate enforcement of the same, that the Movant will be able to obtain a substantial and improper advantage, to the detriment of other creditors in the state court case. The end result of this improper advantage may be that sums, which would otherwise be available for distribution by the Trustee, will instead not be available.

7. The property in question is my primary, and in fact only, residence. During the eight years I have resided there, I have become actively involved in the area neighborhood and development associations, including the Pleasant Valley Neighborhood Association and the Rock Creek Development

Association. I have also been a past candidate for the Oregon House of Representatives from District 10, and I intend to again seek such office again.

8. For the reasons as set forth above, and in the interests of justice, I request that the Court deny

the Motion for Relief From the Automatic Stay.

9. I understand that this Declaration is made for use in a Court proceeding, and is offered under penalty of perjury. If called upon to testify in open court, I would relate essentially the same facts as set forth herein.

FURTHER DECLARANT SAYETH NOT:

Dated this 28th day of November, 2016.

Jack Karroll Davis

**TRUE COPY CERTIFICATE/CERTIFICATE OF MAILING**

STATE OF OREGON )
) ss.
County of Multnomah )

I HEREBY CERTIFY that I have prepared the foregoing copy of my ***Debtor's Response and Objections in Opposition to Motion for Relief From Stay***, ***Declaration of Jack Karroll Davis***, and ***Notice of Hearing on Motion***,, that I have carefully compared the same with the originals thereof; and that each such copy is a true and correct copy of the original thereof and of the whole thereof.

Jack Karroll Davis - Debtor Pro Se

==================================================================

Date:

I HEREBY CERTIFY that I served the attached: ***Debtor's Response and Objections in Opposition to Motion for Relief From Stay***, ***Declaration of Jack Karroll Davis***, and ***Notice of Hearing on Motion***, on the respective parties and/or attorneys for parties whose names and addresses appear below, which, as to each such party or attorney, is the regular office address, or the address last given on a paper filed by him/her in the above entitled cause and served on me, on the date hereinabove indicated, by depositing in the Post Office at Portland, Oregon, true copies of said documents, certified by me to be such, addressed to said party or attorney at said address, or by facsimile transmission to the facsimile number which said party or attorney maintains for the regular conduct of business, or by personal delivery to the same.

Jack Karroll Davis - Debtor Pro Se
27448 S. Highway 213
Mulino, Oregon 97042
(503) 953-4120

Robert S. Phed
1001 SW 5th Avenue, Suite
1220 Portland, Oregon 97204
Facsimile: (503) 775-1764

Attorney for Movant Brenda Harvey